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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

CELESTE AMOS, individually and as)	
Guardian of KAYCEE AMOS, WESTON)	
AMOS, and CHEYENNE AMOS, heirs of)	MEMORANDUM IN SUPPORT OF
JOSHUA TROY AMOS, Decedent, and)	DEFENDANT'S MOTION TO
LINDA BARTON, an individual,)	EXCLUDE BARTON WITNESSES
)	AND EXHIBITS
Plaintiffs,)	
)	
v.)	
)	Case No. 2:07-CV-00049
W.L. PLASTICS, INC., a Delaware)	Judge Ted Stewart
corporation,)	
)	
Defendant.)	

COMES NOW the defendant WL Plastics (hereinafter "WL"), and submits the following memorandum in support of its motion to exclude plaintiff Linda Barton's trial witnesses and exhibits identified for the first time in the stipulated pretrial order. That order was filed after 5:00 p.m. on Friday, January 8, 2010.

ARGUMENT

Plaintiff Linda Barton failed to file any pretrial disclosures as required by Rule 26(a)(3)(B)

of the Federal Rules of Civil Procedure. That rule states in part “Unless the court orders otherwise, these disclosures must be made at least 30 days before trial.” No disclosures were made by Plaintiff Linda Barton. The first reference to witnesses or exhibits she proposed calling was in the pretrial order filed on January 8, 2010, ten days before trial. As of January 13, 2010, she has not provided copies of any exhibits.

CONCLUSION

It is therefore respectfully submitted that Linda Barton be precluded from calling the witnesses or introducing exhibits she identified for the first time in the pretrial order.

Dated this 13th day of January, 2010.

PLANT, CHRISTENSEN & KANELL

/s/ Scott W. Christensen

SCOTT W. CHRISTENSEN

Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of January 2010, I electronically filed the foregoing **MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION TO EXCLUDE BARTON WITNESSES AND EXHIBITS** with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

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